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ENVIRONMENTAL PROTECTION AGENCY
REGION III

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REGIONAL HEARING CLERK
EPA REGION III, PHILADELPHIA, PA

IN THE MATTER OF:

Judith Kime
44 Country Manor Lane
Linden, PA 17744

RESPONDENT.

**ADMINISTRATIVE COMPLAINT AND
NOTICE OF OPPORTUNITY FOR A
HEARING ISSUED PURSUANT TO
SECTION 16(a) OF THE TOXIC
SUBSTANCES CONTROL ACT
("TSCA"), 15 U.S.C. § 2615(a).**

**Proceeding under Sections 409 and 16(a)
of the Toxic Substances Control Act, 15
U.S.C. §§ 2689 and 2615(a)**

Docket No.: TSCA-03-2012-0042

This Administrative Complaint and Notice of Opportunity for a Hearing ("Complaint") is issued pursuant to the authority vested in the Administrator of the United States Environmental Protection Agency ("EPA" or the "Agency") by Section 16(a) of the Toxic Substances Control Act ("TSCA"), 15 U.S.C. § 2615(a), the federal regulations set forth at 40 C.F.R. Part 745, Subpart F, and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits, 40 C.F.R. Part 22 ("Consolidated Rules of Practice"), a copy of which is enclosed with this Complaint. The Administrator has delegated this authority, under TSCA, to the Regional Administrators and this authority has been further delegated in U.S. EPA Region III to, *inter alia*, the Director of the Land and Chemicals Division ("Complainant"), pursuant to EPA Region III Delegation No. 12-2-A.

The Respondent in this action is Judith Kime of 44 Country Manor Lane, Linden, Pennsylvania. By issuing this Complaint, Complainant alleges that Judith Kime violated Section 409 of TSCA, 15 U.S.C. § 2689, the Residential Lead-Based Paint Hazard Reduction Act of 1992 ("RLBPHRA"), 42 U.S.C. §§ 4851 *et seq.*, and the federal regulations promulgated thereunder, set forth in 40 C.F.R. Part 745, Subpart F (also known as the "Disclosure Rule"). The alleged violations relate to written lease agreements associated with target housing units described more fully in Sections III and IV of this Complaint.

Failure to comply with Section 1018 of the RLBPHRA, 42 U.S.C. § 4852d, or with any rule or regulation issued thereunder, including 40 C.F.R. Part 745, Subpart F, constitutes a violation of Section 409 of TSCA, 15 U.S.C. § 2689. Pursuant to Section 16 of TSCA, 15 U.S.C. § 2615, violators of Section 409 of TSCA, 15 U.S.C. § 2689, are subject to the assessment of civil and criminal penalties.

In support of the Complaint, Complainant alleges the following:

I. JURISDICTION

1. The U.S. Environmental Protection Agency and the Office of Administrative Law Judges of the EPA have jurisdiction over the above-captioned matter pursuant to Sections 16 and 409 of TSCA, 15 U.S.C. §§ 2615 and 2689, Section 1018 of Title X of the RLBPHRA, 42 U.S.C. § 4852d, 40 C.F.R. Part 745, Subpart F, and 40 C.F.R. §§ 22.1(a)(5) and 22.4 of the Consolidated Rules of Practice.

II. DEFINITIONS AND REGULATORY REQUIREMENTS

2. Pursuant to 40 C.F.R. § 745.103, the term “lead-based paint” means paint or other surface coatings that contain lead equal to or in excess of 1.0 milligram per square centimeter [mg/cm^2] or 0.5 percent by weight.
3. Pursuant to 40 C.F.R. § 745.103, the term “lead-based paint hazard” means any condition that causes exposure to lead from lead-contaminated dust, lead-contaminated soil, or lead-contaminated paint that is deteriorated or present in accessible surfaces, friction surfaces, or impact surfaces that would result in adverse human health effects as established by the appropriate Federal agency.
4. Pursuant to 40 C.F.R. § 745.107(a)(1), the term “lead hazard information pamphlet” includes the EPA document entitled *Protect Your Family From Lead in Your Home* (EPA #747-K-94-001) or an equivalent pamphlet approved for use in a particular State by EPA.
5. Pursuant to 40 C.F.R. § 745.103, the term “lessee” means any entity that enters into an agreement to lease, rent, or sublease target housing, including, but not limited to individuals, partnerships, corporations, trusts, government agencies, housing agencies, Indian tribes, and nonprofit organizations.
6. Pursuant to 40 C.F.R. § 745.103, the term “owner” means any entity that has legal title to target housing, including but not limited to individuals, partnerships, corporations, trusts, government agencies, housing agencies, Indian tribes and nonprofit organizations, except where a mortgagee holds legal title to property serving as collateral for a mortgage loan, in which case the owner would be the mortgagor.
7. Pursuant to 40 C.F.R. § 745.103, the term “lessor” means any entity that offers target housing for lease, rent, or sublease, including, but not limited to individuals, partnerships, corporations, trusts, government agencies, housing agencies, Indian tribes, and nonprofit organizations.
8. Pursuant to Section 1004(23) of the RLBPHRA, 42 U.S.C. § 4851b(23), Section 401(14) of TSCA, 15 U.S.C. § 2681(14), and 40 C.F.R. § 745.103, the term “residential dwelling” means: (1) A single-family dwelling, including attached structures such as porches and stoops; or (2) A single-family dwelling unit in a structure that contains more than one separate residential dwelling unit, and in which each such unit is used or occupied, or intended to be used or occupied, in whole or in part, as the residence of one or more persons.

9. Pursuant to Section 1004(24) of the RLBPHRA, 42 U.S.C. § 4851b(24), and Section 401(15) of TSCA, 15 U.S.C. § 2681(15), the term “residential real property” means real property on which there is situated one or more residential dwellings used or occupied, or intended to be used or occupied, in whole or in part, as the home or residence of one or more persons.
10. Pursuant to Section 1004(27) of the RLBPHRA, 42 U.S.C. § 4851b(27), TSCA Section 401(17), 15 U.S.C. § 2681(17), and 40 C.F.R. § 745.103, the term “target housing” means any housing constructed prior to 1978, except housing for the elderly or persons with disabilities (unless any child who is less than 6 years of age resides or is expected to reside in such housing) or any 0-bedroom dwelling.
11. Pursuant to 40 C.F.R. § 745.113(b)(1), each contract to lease target housing shall include, as an attachment or within the contract, a Lead Warning Statement with the following language: “Housing built before 1978 may contain lead-based paint. Lead from paint, paint chips, and dust can pose health hazards if not managed properly. Lead exposure is especially harmful to young children and pregnant women. Before renting pre-1978 housing, lessors must disclose the presence of lead-based paint and/or lead-based paint hazards in the dwelling. Lessees must also receive a federally approved pamphlet on lead poisoning prevention.”
12. Pursuant to 40 C.F.R. § 745.113(b)(2), each contract to lease target housing shall include, as an attachment or within the contract, a statement by the lessor disclosing the presence of known lead-based paint and/or lead-based paint hazards in the target housing being leased or indicating no knowledge of the presence of lead-based paint and/or lead-based paint hazards. The lessor shall also disclose any additional information available concerning the known lead-based paint and/or lead-based paint hazards, such as the basis for the determination that lead-based paint and/or lead-based paint hazards exist, the location of the lead-based paint and/or lead-based paint hazards and the condition of the painted surfaces.
13. Pursuant to 40 C.F.R. § 745.113(b)(3), the lessor is required to include, either as an attachment to or within the contract for lease, a list of records or reports which were available to the lessor pertaining to lead-based paint and/or lead-based paint hazards in the housing that have been provided to the lessee or to indicate that no such records or reports were available.
14. Pursuant to 40 C.F.R. § 745.113(b)(4), each contract to lease target housing shall include, as an attachment or within the contract, *inter alia*, a statement by the lessee affirming receipt of the lead hazard information pamphlet required under 15 U.S.C. [§ 2686].
15. Pursuant to 40 C.F.R. § 745.113(b)(6), the lessor is required to include, either as an attachment to or within the contract for lease, the signatures of the lessors, agents, and lessees, certifying to the accuracy of their statements, to the best of their knowledge, along with the dates of signature.

16. Pursuant to 40 C.F.R. § 745.113(c)(1), the lessor, and any agent, shall retain a copy of the completed attachment or lease contract containing the information required under [40 C.F.R. § 745.113(b)] for no less than three years from the commencement of the leasing period.
17. The enforcement provisions of 40 C.F.R. § 745.118(e) and (f) state that:

* * *

(e) Failure or refusal to comply with [40 C.F.R.] § 745.107 (disclosure requirements for sellers and lessors), [40 C.F.R.] § 745.110 (opportunity to conduct an evaluation), [40 C.F.R.] § 745.113 (certification and acknowledgment of disclosure) or [40 C.F.R.] § 745.115 (agent responsibilities) is a violation of [RLBPHRA Section 1018(b)(5),] 42 U.S.C. § 4852d(b)(5) and of TSCA section 409 (15 U.S.C. § 2689).

(f) Violators may be subject to civil and criminal sanctions pursuant to TSCA section 16 (15 U.S.C. § 2615) for each violation. For purposes of enforcing this subpart [40 C.F.R. Part 745, Subpart F], the penalty for each violation applicable under 15 U.S.C. § 2615 shall not be more than \$11,000 for all violations occurring after July 28, 1997. [This amount was raised to not be more than \$16,000 for violations occurring after January 12, 2009, as set forth in 40 C.F.R. Part 19.]

III. FINDINGS OF FACT AND CONCLUSIONS OF LAW

18. Judith Kime (hereinafter “Respondent”) is an individual person residing at 44 Country Manor Lane in Linden, Pennsylvania 17744.
19. At all times relevant to the violations alleged in this Consent Agreement, Respondent was an “owner” and the “lessor” of the following “residential dwellings,” as those terms are defined at 40 C.F.R. § 745.103, located in Williamsport, Pennsylvania and leased on the dates indicated:

<u>House Address</u>	<u>Lease Date</u>
A) 2339 West 4th Street, Williamsport, PA 17701	6/8/2009
B) 2345 1/2 West 4th Street, Williamsport, PA 17701	8/1/2008
C) 2345 West 4th Street, Williamsport, PA 17701	9/17/2008
D) 2343 West 4th Street, Williamsport, PA 17701	7/1/2008 - 3/25/2010*

*Includes all leases occurring between these dates

20. Each House and Lease in Paragraph 19 is hereinafter identified by its respective subsection of Paragraph 19: *e.g.*, Houses A, B, C, and D, and Leases A, B, C, and D. Lease D includes all leases of House D that occurred between the specified dates.

21. Houses A, B, C, and D were all constructed prior to 1978 and are all “target housing” as that term is defined at 40 C.F.R. § 745.103.
22. Respondent, in her capacity as an “Owner” and “Lessor” of Houses A, B, and C, entered into written contracts with “Lessees” to rent or lease Houses A, B, and C on the dates specified in Paragraph 19. The terms “Owner,” “Lessor,” and “Lessees” are defined at 40 C.F.R. § 745.103.
23. Respondent, in her capacity as an “Owner” and “Lessor” of House D, entered into one or more written contracts with “Lessees” to rent House D between the dates specified in Paragraph 19.
24. Leases A, B, C, and D did not involve:
 - A. a “[s]ale[] of target housing at foreclosure,” as provided at 40 C.F.R. § 745.101(a);
 - B. a “[l]ease[] of target housing . . . found to be lead-based paint free by an inspector certified under the Federal certification program or under a federally accredited State or tribal certification program,” as provided at 40 C.F.R. § 745.101(b);
 - C. a “[s]hort-term lease[] of 100 days or less, where no lease renewal or extension can occur,” as provided at 40 C.F.R. § 745.101 (c); or
 - D. a “[r]enewal[] of [an] existing lease[] . . . in which the lessor has previously disclosed all information required under § 745.107 and where no new information described in § 745.107 has come into the possession of the lessor,” as provided at 40 C.F.R. § 745.101(d).
25. “Lessees” moved into and resided at Houses A, B, C, and D during the terms of Leases A, B, C, and D.
26. At all times relevant to Lease A, children under six years of age lived in the 2339 West 4th Street property.
27. At all times relevant to Lease B, children under six years of age lived in the 2345 1/2 West 4th Street property.
28. At all times relevant to Lease C, a single adult lived in the 2345 West 4th Street property.
29. At all times relevant to Lease D, children six years of age or older but less than 18 years of age lived in the 2343 West 4th Street property.
30. Complainant alleges Respondent committed 16 violations of the Lead Disclosure Rule, as described in the following paragraphs.

COUNTS 1-3: 40 C.F.R. § 745.113(b)(1)

31. Paragraphs 1-30 are incorporated herein by reference.
32. Respondent failed to include in the contracts for Leases A, B, and C, as an attachment to or within such contract, a Lead Warning Statement containing the language set forth in, and required by, 40 C.F.R. § 745.113(b)(1).
33. Respondent's failure to perform the activities required of a lessor under 40 C.F.R. § 745.113(b)(1) in regards to Leases A, B, and C constitutes three separate violations of RLBPHRA Section 1018(b)(5), 42 U.S.C. § 4852d(b)(5), and TSCA Section 409, 15 U.S.C. § 2689.

COUNTS 4-6: 40 C.F.R. § 745.113(b)(2)

34. Paragraphs 1-33 are incorporated herein by reference.
35. Respondent failed to include in the contracts for Leases A, B, and C, as an attachment to or within the contracts, a statement disclosing the presence of known lead-based paint and/or lead-based paint hazards in the Target Housing or a statement indicating no knowledge of the presence of lead-based paint and/or lead-based paint hazards in the Target Housing.
36. Respondent's failure to perform the activities required of a lessor under 40 C.F.R. § 745.113(b)(2) in regards to Leases A, B, and C, constitutes three separate violations of RLBPHRA Section 1018(b)(5), 42 U.S.C. § 4852d(b)(5), and TSCA Section 409, 15 U.S.C. § 2689.

COUNTS 7-9: 40 C.F.R. § 745.113(b)(3)

37. Paragraphs 1-36 are incorporated herein by reference.
38. Respondent failed to include in the contracts for Leases A, B, and C, as an attachment to or within the contracts, a list of records or reports which were available to the lessor pertaining to lead-based paint or lead-based paint hazards in the Target Housing that were provided to the lessees or did not indicate that no such records or reports were available.
39. Respondent's failure to perform the activities required of a lessor under 40 C.F.R. § 745.113(b)(3) in regards to Leases A, B, and C, constitutes three separate violations of RLBPHRA Section 1018(b)(5), 42 U.S.C. § 4852d(b)(5), and TSCA Section 409, 15 U.S.C. § 2689.

COUNTS 10-12: 40 C.F.R. § 745.113(b)(4)

40. Paragraphs 1-39 are incorporated herein by reference.
41. Respondent failed to include a statement by the lessee affirming receipt of the information required by 40 C.F.R. §§ 745.113(b)(2) and (b)(3) and the lead hazard

information pamphlet required under 15 U.S.C. § 2686, either as attachments to, or within, the leases for the target housing Lease A, B, and C, as required by 40 C.F.R. § 745.113(b)(4).

42. Respondent's failure to perform the activities required of a lessor under 40 C.F.R. § 745.113(b)(4) in regards to Leases A, B, and C constitutes three separate violations of RLBPHRA Section 1018(b)(5), 42 U.S.C. § 4852d(b)(5), and TSCA Section 409, 15 U.S.C. § 2689.

COUNTS 13-15: 40 C.F.R. § 745.113(b)(6)

43. Paragraphs 1-42 are incorporated herein by reference.
44. The contracts for Leases A, B, and C did not include, as an attachment to or within each such contract, the signatures of the lessors, agents, and lessees, certifying to the accuracy of their statements, to the best of their knowledge, along with the dates of signature.
45. Respondent's failure to perform the activities required of a lessor under 40 C.F.R. § 745.113(b)(6) in regards to Leases A, B, and C, constitutes three separate violations of RLBPHRA Section 1018(b)(5), 42 U.S.C. § 4852d(b)(5), and TSCA Section 409, 15 U.S.C. § 2689.

COUNT 16: 40 C.F.R. § 745.113(c)(1)

46. Paragraphs 1-45 are incorporated herein by reference.
47. Respondent did not retain a copy of the lease contracts for three years from the commencement of the leases commencing between the dates specified in Lease D.
48. Respondent's failure to perform the activities required of a lessor under 40 C.F.R. § 745.113(c)(1) in regards to Lease D, constitutes a violation of RLBPHRA Section 1018(b)(5), 42 U.S.C. § 4852d(b)(5), and TSCA Section 409, 15 U.S.C. § 2689.

IV. PROPOSED CIVIL PENALTY

Section 1018 of the RLBPHRA, 42 U.S.C. § 4852d, and 40 C.F.R. § 745.118(f) authorize the assessment of a civil penalty under Section 16 of TSCA, 15 U.S.C. § 2615, in the maximum amount of \$10,000 for each violation of Section 409 of TSCA, 15 U.S.C. § 2689. This amount has been adjusted to \$11,000 per violation under the *Civil Monetary Penalty Inflation Adjustment Rule*, 40 C.F.R. Part 19 for all violations occurring after July 28, 1997 and on or before January 12, 2009, and not more than \$16,000 for violations occurring after January 12, 2009, as set forth in 40 C.F.R. Part 19.

To determine the amount of any civil penalty to be assessed, Section 16 of TSCA, 15 U.S.C. § 2615, requires EPA to take into account the nature, circumstances, extent, and gravity of the violation or violations alleged and, with respect to the violator, ability to pay, effect on ability to continue to do business, any history of prior such violations, the degree of culpability, and such other matters as justice may require ("statutory factors"). To develop a penalty,

Complainant will take into account the particular facts and circumstances of this case with specific reference to the statutory factors set forth in Section 16 of TSCA and EPA's *Section 1018 Disclosure Rule Final Enforcement Response Policy* ("ERP"), dated December 2007, a copy of which is enclosed with this Complaint. The ERP provides a rational, consistent, and equitable calculation methodology for applying the statutory factors enumerated above to particular cases. The ERP represents an analysis of the statutory penalty factors enumerated above, as well as guidance on their application to particular cases. If the Complainant's civil penalty proposal is contested through the hearing process described below, Complainant is prepared to offer a statutory basis for the elements of the ERP, as well as for the amount and nature of the civil penalty proposed.

Complainant proposes the assessment, against Respondent, of a civil penalty of up to \$11,000 for each violation alleged in this Complaint. Pursuant to 40 C.F.R. § 22.14(a)(4)(ii), Complainant is not proposing a specific penalty amount at this time, but will do so at a later date after an exchange of information has occurred. See, 40 C.F.R. § 22.19(a)(4). As a basis for calculating a specific penalty pursuant to 40 C.F.R. § 22.19(a)(4), Complainant will consider, among other factors, any facts and circumstances unknown to Complainant at the time of issuance of this Complaint that become known after the Complaint is issued including Respondent's ability to pay the proposed civil penalty assessed in this Complaint. With respect to Respondent's ability to pay the proposed penalty, it is the Respondent's responsibility to provide to Complainant financial information to support and establish a claim of an inability to pay the proposed penalty. Complainant's proposal of the assessment of a civil penalty against the Respondent does not constitute a "demand" as that term is defined in the Equal Access to Justice Act, 28 U.S.C. § 2412.

Explanation of Penalty Assessment

Pursuant to 40 C.F.R. § 22.14(a)(4)(ii), an explanation of the number and severity of the violations for which the assessment of a civil penalty is sought is provided below. This explanation is based upon the facts known to the Complainant at the time this Complaint is issued, Complainant's consideration of the statutory penalty factors enumerated above and the relevant guidance provided in the ERP.

Explanation of Circumstance Levels

Violations of 40 C.F.R. § 745.113(b)(1) impair at a "high" level a lessee's ability to assess the information a lessor must disclose, so the ERP labels them Circumstance Level 2 violations. Counts 1-3 are therefore Circumstance Level 2 violations for purposes of calculating an appropriate penalty.

Violations of 40 C.F.R. § 745.113(b)(2) impair at a "medium" level a lessee's ability to assess the information a lessor must disclose, so the ERP labels them Circumstance Level 3 violations. Counts 4-6 are therefore Circumstance Level 3 violations for purposes of calculating an appropriate penalty.

Violations of 40 C.F.R. § 745.113(b)(3) impair at a "low" level a lessee's ability to assess the information a lessor must disclose, so the ERP labels them Circumstance Level 5 violations.

Counts 7-9 are therefore Circumstance Level 5 violations for purposes of calculating an appropriate penalty.

Violations of 40 C.F.R. § 745.113(b)(4) impair at a “medium” level a lessee’s ability to assess the information a lessor must disclose, so the ERP labels them Circumstance Level 4 violations. Counts 10-12 are therefore Circumstance Level 4 violations for purposes of calculating an appropriate penalty.

Violations of 40 C.F.R. § 745.113(b)(6) impair at a “low” level a lessee’s ability to assess the information a lessor must disclose, so the ERP labels them Circumstance Level 6 violations. Counts 13-15 are therefore Circumstance Level 6 violations for purposes of calculating an appropriate penalty.

Violations of 40 C.F.R. § 745.113(c)(1) make it difficult to determine what information the lessor disclosed, or to what level a lessee’s ability to assess that information was impaired. Conservatively assuming a “low” level of impairment, the ERP labels such violations Circumstance Level 6. Count 16 is therefore a Circumstance Level 6 violation for purposes of calculating an appropriate penalty.

Explanation of Extent Levels

Minor Violations are defined as “[p]otential for a ‘lesser’ amount of damage to human health or the environment.” Failure to provide lead-based paint disclosures and/or certifications to lessees who have no children and are not pregnant women at the time the Disclosure Rule violations occur are considered a “Minor Extent” violations under the ERP.

Significant Violations are defined as “[p]otential for ‘significant’ damage to human health or the environment.” Failure to provide lead-based paint disclosures and/or certifications to lessees of target housing in which a child six years of age or older but less than 18 years of age lives is considered a “Significant Extent” violation under the ERP.

Major Violations are defined as “[p]otential for ‘serious’ damage to human health or the environment.” Failure to provide lead-based paint disclosures and/or certifications to lessees of target housing in which a child under six years of age or pregnant woman lives is considered a “Major Extent” violation under the ERP.

As alleged above, at the time the Disclosure Rule violations occurred for Lease A, Respondent failed to provide disclosure or certifications to lessees subject to this lease. As also alleged above, at that time lessees had a child under the age of six who would and did reside with them during some or all of the term of the lease. Accordingly, the Disclosure Rule violations associated with this lease transaction, as alleged in Counts 1, 4, 7, 10 and 13, are all “Major Extent” violations.

As alleged above, at the time the Disclosure Rule violations occurred for Lease B, Respondent failed to provide disclosure or certifications to lessees subject to this lease. As also alleged above, at that time the lessees had a child under the age of six who would and did reside with them during some or all of the term of the lease. Accordingly, the Disclosure Rule

violations associated with this lease transaction, as alleged in Counts 2, 5, 8, 11 and 14, are all “Major Extent” violations.

As alleged above, at the time the Disclosure Rule violations occurred for Lease C, Respondent failed to provide disclosure or certifications to the lessee subject to this lease. As also alleged above, at that time the lessee was a single adult without children during the term of the lease. Accordingly, the Disclosure Rule violations associated with this lease transaction, as alleged in Counts 3, 6, 9, 12 and 15, are all “Minor Extent” violations.

As alleged above, at the time the Disclosure Rule violation occurred for Lease D, Respondent failed to keep records of what disclosures or certifications were made to the lessees subject to leases between the specified dates. As also alleged above, at that time lessees had children six years of age or older but less than 18 years of age who would and did reside with them during some or all of the term of the lease or leases. Accordingly, the Disclosure Rule violation associated with this lease transaction, as alleged in Count 16, is a “Significant Extent” violation.

Summary of Penalty Calculation by Count

Count	Lease	Regulation	Circumstance, Extent
1	A	40 C.F.R. § 745.113(b)(1)	Level 2, Major Extent
2	B	40 C.F.R. § 745.113(b)(1)	Level 2, Major Extent
3	C	40 C.F.R. § 745.113(b)(1)	Level 2, Minor Extent
4	A	40 C.F.R. § 745.113(b)(2)	Level 3, Major Extent
5	B	40 C.F.R. § 745.113(b)(2)	Level 3, Major Extent
6	C	40 C.F.R. § 745.113(b)(2)	Level 3, Minor Extent
7	A	40 C.F.R. § 745.113(b)(3)	Level 5, Major Extent
8	B	40 C.F.R. § 745.113(b)(3)	Level 5, Major Extent
9	C	40 C.F.R. § 745.113(b)(3)	Level 5, Minor Extent
10	A	40 C.F.R. § 745.113(b)(4)	Level 4, Major Extent
11	B	40 C.F.R. § 745.113(b)(4)	Level 4 Major Extent
12	C	40 C.F.R. § 745.113(b)(4)	Level 4, Minor Extent
13	A	40 C.F.R. § 745.113(b)(6)	Level 6, Major Extent
14	B	40 C.F.R. § 745.113(b)(6)	Level 6, Major Extent
15	C	40 C.F.R. § 745.113(b)(6)	Level 6, Minor Extent
16	D	40 C.F.R. § 745.113(c)(1)	Level 6, Significant Extent

V. NOTICE AND OPPORTUNITY TO REQUEST A HEARING

Respondent has the right to request a hearing to contest any matter of law or material fact set forth in this Complaint or the appropriateness of the proposed penalty. To request a hearing, Respondent must file a written Answer to the Complaint, within thirty (30) days of receipt of this Complaint, with:

Regional Hearing Clerk (3RC00)
 EPA Region III
 1650 Arch Street
 Philadelphia, PA 19103-2029

The Answer should clearly and directly admit, deny, or explain each of the factual allegations contained in this Complaint of which the Respondent has any knowledge. Where Respondent has no knowledge of the facts contained in an allegation, the Answer should so state. The Answer should contain: (1) the circumstances or arguments which are alleged to constitute the grounds of any defense; (2) the facts which the Respondent disputes; (3) the basis for opposing any proposed relief; and (4) a statement of whether a hearing is requested. All material facts not denied in the Answer will be considered admitted.

If Respondent fails to file a written Answer within thirty (30) days of receipt of this Complaint, such failure shall constitute an admission of all facts alleged against Respondent in this Complaint and a waiver of Respondent's right to a hearing on such factual allegations. Failure to file a written Answer may result in the filing of a Motion for a Default Order and the possible issuance of a Default Order without further proceedings.

Any hearing requested by Respondent will be held at a location to be determined later pursuant to the Consolidated Rules of Practice at 40 C.F.R. § 22.21(d). The hearing will be conducted in accordance with the provisions of the Consolidated Rules of Practice.

A copy of Respondent's Answer and all other documents that the Respondent files in this action should be sent to the attorney assigned to represent Complainant in this case:

Wojciech Jankowski (3RC50)
EPA Region III
1650 Arch Street
Philadelphia, PA 19103-2029.

VI. SETTLEMENT CONFERENCE

Complainant encourages settlement of this proceeding at any time after issuance of the Complaint if such settlement is consistent with the provisions and objectives of TSCA and the RLBPHRA. Whether or not a hearing is requested, Respondent may request a settlement conference with the Complainant to discuss the allegations of the Complaint, and the amount of the proposed civil penalty. However, a request for a settlement conference does not relieve Respondent of its responsibility to file a timely Answer to the Complaint.

In the event settlement is reached, its terms shall be expressed in a written Consent Agreement prepared by Complainant, signed by the parties, and incorporated into a Final Order signed by the Regional Administrator or his designee. The filing of such a Consent Agreement shall constitute a waiver of Respondent's right to contest the allegations of the Complaint and to appeal the Final Order accompanying the Consent Agreement.

If Respondent wishes to arrange a settlement conference, Respondent or Respondent's legal counsel should contact Mr. Jankowski at (215) 814-2463 prior to the expiration of the thirty (30) day period following the receipt of this Complaint. Once again, however, such a request for a settlement conference does not relieve Respondent of its responsibility to file an Answer within thirty (30) days following Respondent's receipt of this Complaint.

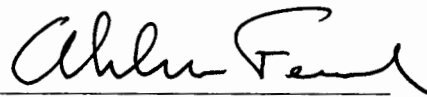
Please note that the Quick Resolution settlement procedures set forth in 40 C.F.R. § 22.18 do not apply to this proceeding because a specific penalty is not proposed in the Amended Complaint. See 40 C.F.R. § 22.18(a)(1).

VII. SEPARATION OF FUNCTIONS AND EX PARTE COMMUNICATIONS

The following Agency offices, and the staffs thereof, are designated as the trial staff to represent the Agency as a party in this case: the Region III Office of Regional Counsel; the Region III Land and Chemicals Division; the Office of the EPA Assistant Administrator for Pesticides and Toxic Substances; and the EPA Assistant Administrator for Enforcement and Compliance Assurance. Commencing from the date of the issuance of this Complaint until issuance of a final Agency decision in this case, neither the Administrator, members of the Environmental Appeals Board, Presiding Officer, Regional Administrator, nor the Regional Judicial Officer, may have an ex parte (unilateral) communication with the trial staff on the merits of any issue involved in this proceeding. Please be advised that the Consolidated Rules of Practice prohibit any ex parte discussion of the merits of a case between either party to this proceeding and the Administrator, members of the Environmental Appeals Board, Presiding Officer, Judicial Officer, Regional Administrator, Regional Judicial Officer, Administrative Law Judge, or any person likely to advise these officials in the decision of the case, after the Complaint is issued.

VIII. SIGNATURE

Date: 9/28/12



Abraham Ferdas, Director
Land and Chemicals Division

RECEIVED

BEFORE THE UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION III

2012 SEP 28 PM 4:49

REGIONAL HEARING CLERK
ADMINISTRATIVE COMPLAINT AND

IN THE MATTER OF:

Judith Kime
44 Country Manor Lane
Linden, PA 17744

NOTICE OF OPPORTUNITY FOR A
HEARING ISSUED PURSUANT TO
SECTION 16(a) OF THE TOXIC
SUBSTANCES CONTROL ACT
("TSCA"), 15 U.S.C. § 2615(a).

RESPONDENT.

Proceeding under Sections 409 and 16(a)
of the Toxic Substances Control Act, 15
U.S.C. §§ 2689 and 2615(a)

Docket No.: TSCA-03-2012-0042

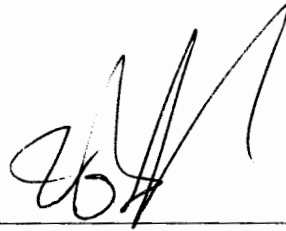
CERTIFICATE OF SERVICE

I hereby certify that the original and one copy of the foregoing Complaint, Docket No. TSCA-03-2012-0042, and associated enclosures, have been filed with the EPA Region III Regional Hearing Clerk, and that a copy of the same were sent to Respondent as set forth below:

UPS (Signature): Judith Kime
44 Country Manor Lane
Linden, PA 17744

Date

9/28/12



Wojciech Jankowski
Counsel for Complainant
U.S. Environmental Protection Agency, Region III
(215) 814-2463